THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1092 of 2007

Dated: 22.01.2007

Between:

M/s Vanitha Granites, Warangal.

..... PETITIONER

AND

The Secretary to Government of A.P., rep.by its Secretary, Hyderabad, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.1092 of 2007

ORDER:

The petitioner applied for grant of quarry lease over an

extent of Ac.1.490 hectares in survey No.409 situated at Mannegudem Village, Dornakal Mandal, Warangal District for a period of twenty years for quarrying black granite. Second respondent considered the same and by proceedings dated 24.01.2005 granted lease on condition of executing quarry lease within a period of sixty days from the date of grant order i.e., 25.03.2005. As the petitioner did not comply with the requirement for executing the lease deed as per the Andhra Pradesh Minor Mineral Concession Rules, 1966 (hereafter called, the Rules), second respondent by proceedings 13.09.2005 revoked the lease as per Rule 12(5)(e) of the Rules. Feeling aggrieved by the same, the petitioner preferred a revision petition under Rule 35A of the Rules before first respondent. By memo dated 30.12.2006, revision petition was dismissed, aggrieved by which instant writ petition is filed.

The learned counsel for the petitioner submits that the petitioner could not complete the formalities of executing the lease deed as he was under mental depression and was suffering from back problem due to disc prolapse, as a result of which he was under intensive treatment from 01.05.2005 to 30.09.2005. Secondly he submits that the action of the respondents in revoking the lease is discriminatory. He would urge that Rule 12(5)(e) of the Rules enables second respondent to extend time for execution of lease by fifteen days from the date of expiry of period stipulated for execution but the total period cannot exceed thirty days. He points out that under Rule 13 of the Rules, a person who is granted lease is given a right to make an application for extension of time even after the expiry of the time by showing sufficient cause. He, therefore, submits that when the two options are available to the statutory authority, one in favour of the grantee ought to have been preferred. He placed reliance on the decision of the Court of Appeal in **Leeds City Council vs. Gordon Hoyland Spencer** (Judgment of Court of Appeal in CCRTF 98/0246/2 dated 06.05.1999).

Per contra, the learned Assistant Government Pleader for Mines and Geology submits that while granting lease by proceedings dated 24.01.2005, the petitioner was informed the conditions, *inter alia,* that he shall have to execute lease deed in Form "G" within sixty days from the date of grant as per Rule 12(5)(e) of the Rules. As the petitioner did not execute the lease deed, the same was cancelled after lapse of nine months and that during said period, the petitioner did not approach second respondent seeking extension of time for execution of the lease deed.

The factual position is not denied. When the lease was granted subject to conditions, *inter alia*, the execution of lease deed in Form "G" within sixty days, non-compliance thereof would entail in revocation/cancellation of the lease. However, as contemplated under Rule 12(5)(e) of the Rules, on a request made by the grantee, the Director may extend time by fifteen days and such extension can be on two occasions totally not exceeding thirty days. First proviso to clause (e) also enables the Director to entertain the applications for extension of time even after prescribed period specified in clause (e). Second proviso mandates that the Director shall revoke the order granting lease in case no lease deed is executed within the stipulated period or extended period. Therefore, the impugned order cannot be faulted. The submission of the learned counsel for the petitioner that Rule 12(5)(e) and Rule 13 of the Rules operate in a discriminatory manner is without any basis. It is admitted that Rule 12(5) of the Rules takes care of grant of a prospecting licence or quarry lease in respect of granite useful for cutting, polishing and marble whereas Rule 13 of the Rules is applicable only in respect of grant of quarry leases other than granite useful for cutting, polishing and marble. When the delegated legislation chose two methods of dealing with two different situations, the person governed by one Rule cannot complain of discrimination with reference to other Rule. Even otherwise this Court does not find any difference in Rule 12(5) and Rule 13 of the Rules.

The writ petition is wholly misconceived and therefore, the same is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

22nd January, 2007
ghn